

CERTIFIED MAIL: RETURN RECEIPT REQUESTED, #9590 9401 0007 5205 8729 28
GENERAL NOTICE LETTER
URGENT LEGAL MATTER - PROMPT REPLY NECESSARY

Higman Service Corporation as Successor to Higman Barge Lines, Inc.
c/o Edward F. LeBreton, III
Fowler Rodriguez
400 Poydras Street, 30th Floor
New Orleans, Louisiana 70130

**Re: SBA Shipyard Superfund Site, Jennings, Jefferson Davis Parish, Louisiana;
CERCLIS #: LAD008434185; General Notice Letter**

Dear Mr. LeBreton:

The purpose of this letter is to provide Higman Service Corporation as Successor to Higman Barge Lines, Inc. (hereinafter is referred to as “you” or “your”), with written notice of your potential liability at the SBA Shipyard Superfund Site (“Site”) located in Jennings, Jefferson Davis Parish, Louisiana. Information available to the U.S. Environmental Protection Agency (“EPA” or the “Agency”) indicates that you may be responsible for the cleanup or costs of cleanup of the contamination found at the Site under the Comprehensive Environmental Response, Liability, and Compensation Act (“CERCLA”).

Under CERCLA, the EPA is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment – that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. The EPA has documented that such a release or threat or release has occurred at the SBA Shipyard Superfund Site. The EPA has spent public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site.

Explanation of Potential Liability

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), potentially responsible parties (“PRPs”) may be required to perform cleanup actions to protect the public health and welfare or the environment. PRPs may also be responsible for costs incurred by the EPA in cleaning up the Site. PRPs include current and former owners and operators of the Site, as well as persons who sent or transported hazardous substances to the Site for disposal or treatment or who arranged for the disposal or treatment of hazardous substances at the Site.

Based on the information collected, the EPA believes that you may be liable under Section 107(a) of CERCLA, with respect to the SBA Shipyard Superfund Site, as an arranger, who by contract or agreement, arranged for the disposal, treatment, or transportation of hazardous substances at the Site.

Site History

The Site is situated on approximately 98 acres of land located in a rural-industrial area at 9040 Castex Landing Road, Jennings, Jefferson Davis Parish, Louisiana 70546. The Site is within Section 19 of Range 2W, Township 105 and is located at the end of Louisiana Highway 3166) which is on the west bank of the Mermentau River. The Site is approximately four miles southeast of downtown Jennings and two miles southwest of the village of Mermentau. The Site is bordered to the north by residents, south and west by wetlands, and east by the Mermentau River and wetlands.

The Site primarily consists of two separately-owned parcels of property, one southern and one northern. The southern and northern properties are generally divided by a property line that runs just north of the large barge slip. Suzanne Smailhall Cornelius, (heir of Louis Smailhall, principal of SBA Shipyards, Inc.) and SBA Shipyards, Inc. (now inactive) own the southern property, which historically was operated as a barge cleaning operation. Bunge Street Properties, LLC, f/k/a Leevac Shipyards, Inc., owns the northern property, which historically was operated as a vessel construction and repair operation.

SBA Shipyards, Inc. ("SBA") began operations at the Site on about 1965. Initially, it performed vessel construction and repair operations on what is now the northern parcel. In the 1970s, SBA constructed the graving dock on the northern parcel and dredged the barge slip and constructed the barge cleaning facility on what is now the southern parcel. Leevac Shipyards, Inc. ("Leevac") entered into a lease with option to purchase for the northern vessel construction and repair facility with SBA in 1993. Leevac operated vessel construction and repair operations on the northern parcel beginning in 1993. Leevac then exercised its option to purchase in 1998 and acquired the northern parcel at that time and continued its operations. SBA continued to operate its barge cleaning operations on the southern parcel up until approximately 2006, when Mr. Smailhall died.

Vessel construction and repair utilized two launch slips with on-land rails to haul and launch vessels and eventually a graving dock with a moving gate where a vessel could enter and the dock de-watered to allow construction and repairs on dry land. Both SBA and Leevac activities included sandblasting, cutting and painting, as well as fabricating and repairing vessels. Barge cleaning operations were conducted by SBA only on the southern parcel. SBA converted a small barge placed on land adjacent to the barge slip into its "boiler barge," which it used to generate steam for use in cleaning barges and it also served as the barge cleaning control room.

SBA cleaned barges and other vessels that had contained as last cargos a variety of materials, including, but not limited to: acrylates, asphalt, carbon tetrachloride, coal tar, coke oven tar, carbon black, carbon oil, , caustic soda, creosote, cumene, black oil and black oil slop, bunker crude, diesel fuel, heavy grease, waste water, ethyl acrylates, kerosene, lube oil, methanol, number 6 oil , rust, scale, styrene, sour gas oil, soy bean oil, sulphuric acid, tallow, and vinyl acetate.

SBA used a large partially buried barge, as well as above-grade tanks constructed from cut-up barges, to store liquids, sludges, solids and other materials during the barge cleaning process. SBA also constructed and used an unlined surface impoundment called the Oil Pit to store liquids, sludges, solids and other materials. Aside from the Oil Pit, SBA used three other unlined surface impoundments, called Water Pits 1, 2 and 3, to receive wastewater, sludges and solids from the barge cleaning process.

In December 10, 2002, EPA entered into an Order and Agreement for Interim Measures/Removal Action (IM/RA) of Hazardous/Principal Threat Wastes at SBA Shipyards, Inc., Docket No. RCRA-6-2002-0908, pursuant to RCRA Section 3008(h) (“2002 Order/Agreement”) with SBA and SSIC Remediation, LLC (“SSIC”), an entity formed by certain former customers of SBA’s barge cleaning operations to conduct this work. Interim removal activities were conducted from March 2001 through January 2005 under the 2002 Order/Agreement. Interim removal activities consisted of the removing, solidifying, and recycling and/or disposing off-site the waste in the Oil Pit and Water Pit 2 and then over-excavation of the Oil Pit and Water Pit 2; removal and scrapping of above ground storage tanks; draining and refilling of Water Pit 3; removing all pumpable materials from the partially buried barge and disposing those materials off-site, then welding shut all hatches to that barge; and surface scrapping of all visible materials from a former land treatment unit (FLTU). By letter dated February 24, 2006, EPA Region 6’s RCRA branch reviewed and approved the completion report of the IM/RA activities and concluded that the completion report fulfilled the 2002 Order/Agreement. The IM/RA, however, was intended as an interim response; hazardous substance remained onsite after the IM/RA.

In October 2012, the U.S. Coast Guard and the LDEQ responded to a reported release at the barge cleaning portion of the Site from an attempt to scrap the “boiler barge” and the partially buried storage barge by parties contracted by the owner of the southern portion of the Site. During 2014 to 2015, EPA conducted a CERCLA emergency removal action and an Oil Pollution Act of 1990 removal action after LDEQ reported barge scrapping activities and releases of visible liquids at the Site.

Between December 2012 and September 2014, EPA conducted a preliminary assessment, site inspection, and expanded site inspection. As part of EPA activities, the Agency conducted sampling activities at the Site. During those site activities, EPA sampling documented releases or threats of releases of hazardous substances in the subsurface and groundwater of the Site, the Mermentau River, and wetlands surrounding the Site. Numerous hazardous substances were identified at the Site including petroleum hydrocarbons, numerous polycyclic aromatic hydrocarbons, dioxins/furans, metals, and volatile organic compounds. Petroleum and non-petroleum substances found at portions of the Site are or were comingled.

Information to Assist You

The EPA would like to encourage communication between you, other PRPs, and EPA at the Site. The EPA is in the process of negotiating a remedial investigation/feasibility study administrative settlement and order on consent (“ASAO”) for the Site with some of the potentially responsible parties. If you would

like to discuss the opportunity to join this ongoing settlement, please contact counsel representing the group of potentially responsible parties below within **30 days** of receipt of this Notice Letter:

Michael A. Chernekoff
Partner
Jones Walker LLP
1001 Fannin St., Ste. 2450
Houston, Texas 77002
(713) 437-1827
mchernekoff@joneswalker.com

We encourage you to give this matter your immediate attention and request. The EPA plans to finalize the ASAO after the 30-day response period for this General Notice. If you choose not to join the ongoing settlement discussions or pursue other options to satisfy your potential liability with the EPA, the EPA will evaluate enforcement options, including issuing special notice letters to all potentially liable parties known to the EPA at that time.

Also included in this letter to assist you are: the evidentiary documents as Enclosure A; the Small Business Resource Fact Sheet as Enclosure B; and the parties receiving this letter as Enclosure C.

Financial Concerns/ Ability-to-Pay Settlements

The EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. In accordance with Section 122(g)(7) of CERCLA, 42 U.S.C. § 9622(g)(7), the EPA will review financial information that you submit in order to determine whether you have an inability or a limited ability to pay response costs incurred at the Site. As part of this review, the EPA will take into consideration your overall financial condition and demonstrable constraints on your ability to raise revenue. Based upon the financial information that you may submit, EPA will determine whether it can qualify for a reduction in the settlement amount and/or an alternative payment method within the meaning of Section 122(g)(7) of CERCLA, 42 U.S.C. § 9622(g)(7).

If you believe that you qualify for a reduction in any settlement amount and/or alternative payment amount under the criteria described in the paragraphs above, please contact Mr. Talton, at 214-665-7475 for information on “Ability to Pay Settlements.” In response, you will receive a package of information about the potential for such settlements and an information request for your relevant financial information, and you will be asked to submit financial records including business federal income tax returns. If the EPA concludes that you have a legitimate inability to pay the full amount of the response costs, the EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Also, please note that because the EPA has a potential claim against you, if your financial status changes in any significant way, e.g., filing for bankruptcy, you must include the EPA as a creditor. The EPA reserves the right to file a proof of claim or an application for reimbursement of administrative expenses.

Resources and Information for Small Businesses

As you may be aware, on January 11, 2002, President Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may download a copy of the law at <http://www.gpo.gov/fdsys/pkg/PLAW-107publ118/pdf/PLAW-107publ118.pdf> and review the EPA guidances regarding these exemptions at <http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/>.

The EPA has created a number of helpful resources for small businesses. The EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at <http://www.epa.gov/compliance/compliance-assistance-centers>. In addition, the EPA Small Business Ombudsman may be contacted at <http://www.epa.gov/resources-small-businesses/forms/contact-us-about-resources-small-businesses>. Finally, the EPA has developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act (SBREFA) and information on resources for small businesses, which is enclosed with this letter as Enclosure B and available on the Agency's website at <http://www.epa.gov/compliance/small-business-resources-information-sheet>.

Thank you in advance for your cooperation. We look forward to working closely with you in the future. If you have any questions regarding the notice or any of the documentation included, please contact Mr. Kenneth Talton at 214-665-7475 or talton.chuck@epa.gov. Questions concerning legal matters should be directed to the EPA site attorney, Ms. I-Jung Chiang, at 214-665-2160 or chiang.i-jung@epa.gov. Thank you for your attention to this matter.

Sincerely yours,

Ben Banipal, P.E., Branch Chief
Technical and Enforcement Branch
Superfund Division

Enclosures:

- A Evidentiary Documents
- B Small Business Resource Fact Sheet
- C Parties Receiving General Notice letter